

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 09-15-67907
HUD# 07-16-4010-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENTS

808 ON 5TH, LLC
3581 Quarter Dale Court SE
Iowa City, Iowa 52240-8007

BLUE SKY DEVELOPERS, INC.
3581 Quarter Dale Court SE
Iowa City, Iowa 52240-8007

CARLSON DESIGN TEAM, PC
1210 S Gilbert Street
Iowa City, Iowa 52240-4557

COMPLAINANT

ANGELA JACKSON (formerly WILLIAMS)
Commissioner, Iowa Civil Rights Commission
400 East 14th Street
Des Moines, Iowa 50319

and

IOWA CIVIL RIGHTS COMMISSION
400 East 14th Street
Des Moines, Iowa 50319

Complainant's Allegations:

Complainant is a member of the Iowa Civil Rights Commission (ICRC). As a member, Complainant has the authority to file a complaint alleging a discriminatory practice in violation of the "Iowa Civil Rights Act of 1965," Iowa Code Chapter 216.

Complainant alleged Respondents designed and constructed covered multifamily dwelling units in violation of the design and construction accessibility requirements of the Iowa Civil Rights Act (ICRA) and the federal Fair Housing Act (FHA). Complainant alleged Respondents violated "accessible route into and throughout the covered unit" requirement of the ICRA and FHA.¹

Complainant specifically alleged, in Unit 512, 808 5th Street, Coralville, 808 on 5th Apartments [henceforth referred to as "808 on 5th"], the height of the threshold to the balcony landing was 6 inches, which is greater than the maximum allowable threshold height of 1/2-inch for a pervious surface.

Description of the Subject Property

808 on 5th has one building with five floors – including retail spaces and offices on the first floor – and 18 dwelling units on each of the other four floors, for a total of 72 dwelling units, all served by an elevator. Since there is an elevator, every one of the 72 dwelling units in the subject property building is "covered"² by the design and construction provisions of the ICRA and FHA.³ The building was issued a Certificate of Occupancy on July 31, 2015, signed by Jim Kessler, Building Official for the City of Coralville, Iowa.

The scope of this agreement covers all 72 units, as well as the public and common use areas at 808 on 5th. The construction of all units within the subject property building was based on 10 different designs. These designs have been grouped by ICRC Investigators into five separate groups due to their layout similarity, based on the floorplan configurations observed in the blueprint drawings submitted by Respondents.⁴

The table at the top of the next page lists the unit types, the number of units per type, the different groups of unit types, the total number of units per group, and the unit numbers of the inspected units.

¹ Iowa Code §§216.8A(3)(c)(i) and 24 C.F.R. §§ 100.205(c)(3)(i).

²"Covered multifamily dwellings" or "covered multifamily dwellings subject to the Fair Housing Amendments" means buildings consisting of four or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units." Fair Housing Accessibility Guidelines, Federal Register, Vol. 56, No. 44, Wednesday, March 6, 1991, Rules and Regulations, page 9500.

³42 U.S.C. §3604(f)(7); Iowa Code §§216.2(4)(a), 216.2(4)(b).

⁴ See Appendix B for floorplans.

UNIT TYPE	TOTAL UNITS PER TYPE	TOTAL UNITS PER FLOOR				UNIT GROUP	TOTAL UNITS PER GROUP	INSPECTED UNITS
		2 ND	3 RD	4 TH	5 TH			
A [ANSI TYPE A]	1	1	0	0	0	Type A [1BR/1BA]	44	513
A [ANSI TYPE B]	35	8	9	9	9			
A.1 [ANSI TYPE B]	8	2	2	2	2			
B [ANSI TYPE A]	1	1	0	0	0	Type B [2BR/2BA]	8	203
B [ANSI TYPE B]	1	1	0	0	0			
B.1 [ANSI TYPE B]	6	0	2	2	2			
C [ANSI TYPE B]	2	2	0	0	0	Type C [2BR/2BA]	8	517
C.1 [ANSI TYPE B]	6	0	2	2	2			
D [ANSI TYPE B]	8	2	2	2	2	Type D [2BR/2BA]	8	518
E [ANSI TYPE B]	4	1	1	1	1	Type E [Studio/1BA]	4	210
TOTALS	72	18	18	18	18			

Respondents' Defenses:

When asked in the questionnaire what was true or false about the allegations, Respondent Carlson Design Team answered:

Since receipt of this complaint, we have not visited Unit 512 to determine the difference in elevation from the interior to the balcony area, so we cannot comment on the accuracy of this height difference allegation at this unit.

Respondents 808 on 5th LLC and Blue Sky Development answered:

808 on 5th LLC believes that the building was built per plan.

Report of Preliminary Findings:

ICRC Investigators inspected five units at 808 on 5th, as well as the public and common use areas in and surrounding the complex. After conducting an onsite inspection of the

units listed in the table above and the public/common use areas, ICRC Investigators found and reported the following deficiencies:⁵

- 1) Respondents stated the exterior parking area is available for use by tenants, their guests, and the customers to the retail stores located on the ground floor. The exterior parking area is located to the north, east, west, and south of the subject property building and consists of 145 parking spaces. This includes six spaces designated as reserved for persons with disabilities. Two of these six spaces are designated as “Van-Accessible,” and are located south of the south-facing building entrance near the power meter readers. The parking space to the east of the access aisle is 100 inches wide and the one to the west is 122 inches, both of which are less than the 132-inch minimum required by ADAAG. The access aisle that is shared by these two parking spaces is 56 inches wide, which is less than the 60-inch minimum required by ADAAG.⁶ These parking spaces and the access aisle need to be made wider to bring them into compliance with the ADAAG requirements.
- 2) The wall-mounted mailboxes are adjacent to the entrance near the elevator. With an elevator serving all floors in the building, all 72 mailboxes must be usable with heights at or below the required 54-inch maximum height. The measured heights of the keyholes at the top four rows of mailboxes are reported in the table below.⁷

TOP FOUR MAILBOX ROWS	HEIGHT IN INCHES
First	68
Second	64 ½
Third	61
Fourth	57 ¼

The top four rows of mailboxes are unusable for someone in a wheelchair because they exceed the 54-inch maximum height allowed by the reach parameters of ANSI 1986.

- 3) The clear opening width of the sliding glass door in the living room of Unit 210 measured 29 1/2 inches with bumper in place and 30 1/4 inches with the bumper removed.⁸ Unit 210 [Unit Type E] has two sliding glass doorways onto the balcony, both of which have the same clear opening width. The clear opening width of the sliding glass doorways for Unit 210 is too narrow, making them unusable by persons using wheelchairs.
- 4) The table below lists the measurements obtained for the interior and exterior threshold heights at the sliding glass doorway onto the wood [i.e., pervious surface] balconies for all inspected units and the distance that the exterior surface is below the

⁵ See the “Assessment of Deficiencies” section later in this report for information about the application of ANSI 2003 to the observed deficiencies.

⁶ See Appendix A, Figures 1A, 1B, 1C, 1D, 1E, and 1F.

⁷ See Appendix A, Figures 2A and 2B.

⁸ See Appendix A, Figures 3A, 3B, and 3C.

finished interior floor surface, which is calculated by subtracting the interior threshold height value from the exterior threshold height value. All of the values for thresholds in the table below are expressed in inches.

UNIT NUMBER	UNIT TYPE	INTERIOR THRESHOLD HEIGHT	EXTERIOR THRESHOLD HEIGHT	DIFFERENCE BETWEEN THRESHOLDS
210	E	2 1/16	7 1/2	5 7/16
517	C.1	2 3/16	7 1/2	5 5/16
518	D	2 5/16	7 1/2	5 3/16

All of the interior threshold heights exceed the 1/4-inch maximum allowed for thresholds without beveling.⁹ The exterior threshold height onto the wood balcony for the secondary entrance in all units was measured at 7 1/2 inches.¹⁰ As indicated in the table above, exterior wood balcony surfaces are below interior finished floor surface by more than the 1/2-inch maximum that is allowed for pervious exterior surfaces. So, both the interior and exterior threshold heights will need to be corrected in all units with balconies, which include A.1, B.1, C.1, D, and E units. E units have two secondary entrances onto the balcony, both of which are required to be accessible.

As described above, the threshold heights are too high which render the secondary entrances to the porches unusable by tenants using wheelchairs.

- 5) The height of the light switch adjacent to the primary entrance to Unit 518 [Unit Type D] was measured at 49 inches with the light switch in the “on” position.¹¹ The height required for turning off the light switch was measured at higher than the 48-inch maximum reach limit allowed by the Guidelines, making it unusable by a tenant in a wheelchair.
- 6) The distance between the midline of the toilet to the grab-bar side in the master bathroom for Unit 517 [Unit Type C.1] was measured at 16 3/4 inches and at 17 inches for the bathroom in Unit 513 [Unit Type A], which is less than the required minimum of 18 inches, as required by the FHADM.¹² These toilets are too close to the wall to be accessible and usable by persons utilizing a wheelchair for mobility.
- 7) The distance from the midline of the sink to the nearest obstruction was measured in the bathrooms of the inspected units. In the bathroom for Unit 210 [Unit Type E] and the master bathroom for Unit 517 [Unit Type C.1], the midline of the sinks was no more than 16 3/4 inches from the adjoining wall.¹³

⁹ See Appendix A, Figures 4A and 4B.

¹⁰ See Appendix A, Figure 4F.

¹¹ See Appendix A, Figures 3A and 3B.

¹² See Appendix A, Figure 9A.

¹³ See Appendix A, Figure 7A.

Respondents claim all bathroom vanity cabinets are removable. In order to confirm the vanity cabinets in the bathrooms described above are indeed removable, ICRC required Respondents to complete the steps required in the Report of Preliminary Findings at one of these units.

- 8) The clear floor space outside of the swing of the door was measured at less than 30 by 48 inches in Unit 210.¹⁴ The clear floor space in these bathrooms is less than the minimum required by the Guidelines, as stated above, and renders this bathroom unusable for persons who utilize wheelchairs.

Respondents' Response to Report of Preliminary Findings:

Respondents maintain the report incorrectly assumes the deficiencies observed in the inspected units will also be present in all of the other units at 808 on 5th.

Respondents submitted the following responses to the reported deficiencies:

- 1) Respondents will restripe the parking spaces such that the "Van-Accessible" parking spaces located south of the south-facing building entrance are at least 132 inches wide and the access aisle between the two parking spaces is at least 60 inches wide, as required in 2010 ADAAG.
- 2) Respondents will install additional mailboxes at a new location so that the mailboxes for all of the units will have keyholes at heights of no greater than 54 inches, as required in ANSI 1986.
- 3) Respondents will remove the bumpers from both the sliding glass doorways and replace the door handle with a slimmer one in Unit 210 to increase the clear opening width to no less than 31 3/4 inches, as required in ANSI 2003.¹⁵
- 4) Respondents will install ramps with a running slope of no greater than 1:12 [8.33%] at the interior threshold to the sliding glass doorways in Units 210, 517, and 518, as required in ANSI 2003.¹⁶

In their written responses to the reported deficiency for the exterior threshold height at the sliding glass doorway for the inspected units, Respondents stated:

[Respondents believe] that the decks can be made "impervious" by developing a modification to the decks that would fill the spaces between the decking materials. Upon completion of the modification the deck would no longer be considered pervious. Once impervious, and upon receiving allowance for the as-built condition from the City of Coralville, the decking

¹⁴ See Appendix A, Figure 8A.

¹⁵ See ANSI 2003, Section 1004.5.2.1, available online at <https://law.resource.org/pub/us/code/ibr/ansi.a117.1.2003.pdf>. (Last visited on June 8, 2016).

¹⁶ See ANSI 2003, Sections 303.3 and 405.

will meet the requirements under the FHADM, and therefore the balconies would be compliant.

- 5) Respondents will lower the light switch at the primary entrance for Unit 518 to no higher than the 48-inch maximum height, as required by ANSI 2003.¹⁷
- 6) Respondents submitted photographs and written documentation about the removability of vanity cabinets at 808 on 5th in support of their claim that all bathroom sinks at 808 on 5th are removable and, therefore, in compliance with the accessible design and construction requirements of the FHA and ICRA.
- 7) Respondents maintain the distance from the midline of the toilet in Unit 513 should have been made to the adjacent bathtub and not to the adjacent wall near the rear of the toilet. Respondents stated:

The measurement for this condition in Unit 513 is from a wall section that is next to the toilet tank, not the toilet bowl. The toilet tank is not the necessary component of the toilet to be accessible for a person using a wheel chair.

To correct the reported deficiency in Unit 517, Respondents will use an offset flange to enable moving the toilet further away from the adjacent wall, such that the distance from the midline of the toilet to the adjacent wall will be no less than the 18-inch minimum required by ANSI 2003.¹⁸

- 8) Respondents will reinstall the swing door in the bathroom of Unit 210 to create a clear floor space outside the swing of the door that is no less than 30 by 48 inches, as required by ANSI 2003.¹⁹

Assessment of Deficiencies:

Respondents stated all units were built in accordance with the requirements of the 2009 International Building Code [IBC 2009]. The Report of Preliminary Findings reported in error that the IBC 2009 incorporates ANSI 2006 for guidance on the technical requirements, instead of the ANSI 2003, as actually established in IBC 2009.²⁰ Although IBC 2009 is not one of the safe harbors accepted by HUD, ANSI 2003 is a safe harbor.²¹ As such, it will be applied to the observations made in ICRC's inspection of the dwellings and the common areas open only to tenants and their guests within 808 on 5th. Otherwise, the scoping and technical requirements from Title III of the ADA – as presented in the 2010 ADAAG – will

¹⁷ See ANSI 2003, Sections 309 and 305.

¹⁸ See ANSI 2003, Section 1004.11.3.1.2.

¹⁹ See ANSI 2003, Sections 1004.11.1.1 ad 305.3.

²⁰ See IBC 2009, page 600, at <https://law.resource.org/pub/us/code/ibr/icc.ibc.2009.pdf> (Last visited on June 3, 2016).

²¹ <http://www.fairhousingfirst.org/faq/safeharbors.html> (Last visited on March 28, 2014).

be applied to the observations made of the areas open to the general public because these areas are considered “places of public accommodation.”²²

ANSI 2003 is only a safe harbor if it is used in conjunction with the FHA, HUD’s regulations, and the Guidelines.²³ If Respondents followed the ANSI 2003 as a safe harbor in its entirety, then this code will be used to assess compliance with the design and construction accessibility requirements in the FHA and ICRA within the dwelling and the common areas open to tenants and their guests. But if Respondents did not follow the ANSI 2003 in its entirety, then the FHADM and ANSI 1986 will be used to determine any deficiencies.

ICRC concedes the reported deficiencies were directly observed only in the inspected units. However, since it is not feasible to directly inspect every unit at 808 on 5th, ICRC inspected one of each type of unit because of the reasonable expectation that the same kind of deficiencies observed during the inspection of the five unit types will also be observed in the other units of the same types. Therefore, ICRC will include – within each retrofit term – a requirement that all the other units of the same types as the inspected units will be inspected by Respondents to verify compliance with the accessibility requirements of the specific features observed to be deficient within the inspected unit. If the additional units are also found to be deficient, Respondents will be required to retrofit these units in the same manner as the units inspected by ICRC.

Following is the assessment of the reported deficiencies, based on the scoping and technical requirements of FHADM and 2010 ADAAG, and the technical requirements of ANSI 2003:

- 1) ICRC concurs with Respondents’ proposal restripe the parking spaces such that the “Van-Accessible” parking spaces located south of the south-facing building entrance are at least 132 inches wide and the access aisle in between the two parking spaces is at least 60 inches wide, as required in Section 502 of the 2010 ADAAG.²⁴
- 2) ICRC concurs with Respondents’ proposal to install additional mailboxes at a new location – so long as the new location is as close as possible to the current mailboxes

²² “[C]ommon areas that function as one of the ADA’s twelve categories of places of public accommodation within residential facilities are considered places of public accommodation if they are open to persons other than residents and their guests.” See “*Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines*” online at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/fhefhasp (Last visited on June 3, 2016).

²³ Joint Statement of The Department of Housing and Urban Development and the Department of Justice: *Accessibility (Design and Construction) Requirements For Covered Multifamily Dwelling Under The Fair Housing Act*, U.S. Department of Housing and Urban Development (last updated April 13, 2013), <http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF>

²⁴ <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/ada-standards-single-file?highlight=WzlwMTBd> (Last visited Feb. 24, 2015).

and the mailboxes for all of the units will have keyholes at heights of no greater than 54 inches, as required in section 4.2 of ANSI 1986.²⁵

- 3) ICRC concurs with Respondents' proposal to remove the bumpers from both of the sliding glass doorways and replace the door handle with a slimmer one in Unit 210 to increase the clear opening width to no less than the 31 3/4-inch minimum, as required in ANSI 2003.
- 4) ICRC concurs with Respondents' proposal to install ramps with running slopes of no greater than 1:12 [8.33%] at the interior threshold to sliding glass doorways in Units 210, 517, and 518, so long as the width of the ramp is no less than 31 3/4 inches.

However, ICRC does not concur with Respondents' determination that the exterior threshold is actually compliant. ICRC has two reasons. First, even if the balconies were considered to be impermeable construction, the change in level between the interior and exterior surfaces would still be greater than the 4-inch maximum allowed for impermeable construction. Second, the possible waiver from the 4-inch maximum threshold requirement provided by the local building code requires that such code be effective at the time the complaint was filed, which in this case it was not.

Therefore, ICRC will require Respondents to install a retrofit at the balconies – either an accessible ramp with a running slope of no greater than 8.33% or an adjustable raised floor pedestal flooring to raise the floor level of balcony to the same level as the interior finished floor.²⁶

- 5) ICRC concurs with Respondents proposal to lower the light switch at the primary entrance of Unit 518 to no higher than the 48-inch maximum height, as required by the FHADM.
- 6) ICRC acknowledges the bathroom's vanity cabinets are removable based on the photographs and written description submitted by Respondents, and as defined by the FHADM and ANSI 2003. Therefore, the bathroom vanity cabinets for all inspected units are determined to be compliant with the maneuverability requirements of the FHADM. No additional action is required.
- 7) ICRC concurs with Respondents' proposal to use an offset flange to move the toilet in the bathroom for Unit 517 further away from the adjacent wall to increase the distance from the midline of the toilet to the grab-bar side to no less than the 18-inch minimum required by the FHADM and Section 1004.11.3.1.2 from ANSI 2003.

Upon further analysis of the application of the requirements from ANSI 2003 and FHADM to the information gathered in the completed inspection checklists, ICRC

²⁵ Although Section 308.3 from ANSI 2003 is more strict in that it has a maximum reachable height of 48 inches, the 54-inch maximum height allowed by ANSI 1986 is determined to provide sufficient reachability for persons using a wheelchair.

²⁶ See sample product information at <http://www.archiexpo.com/prod/bauder/product-69676-1374415.html>.

concur with Respondents' determination that the distance from the midline of the toilet to the adjacent wall in Unit 513 is actually in compliance with the usable bathroom requirements for toilets. The grab-bar reinforcement area at the back-wall behind the toilet will allow for the possible installation of a grab bar on the side of the toilet that is adjacent to the vanity cabinet, and will be in compliance with the 18-inch minimum distance requirement.

- 8) ICRC concurs with Respondents proposal to reinstall the swing door in the bathroom for Unit 210 to create a clear floor space outside the swing of the door that is no less than 30 by 48 inches.

Predetermination Settlement Agreement

A complaint having been filed by Complainant against Respondents, Carlson Design Team, PC (hereinafter "CDT") and Blue Sky Developers, Inc./808 on 5th, Inc. (hereinafter "BSD") regarding the property located at 808 Fifth Street, Coralville, Iowa (commonly known as "808 on 5th") with ICRC under Iowa Code Chapter 216 and there having been a preliminary inquiry, including an on-site inspection of 808 on 5th, the parties do hereby agree and settle the above-captioned matter regarding 808 on 5th in the following extent and manner:

Acknowledgment of Fair Housing Laws

1. Respondents agree there shall be no discrimination, harassment, or retaliation of any kind against Complainant or any other person for filing a charge under the "Iowa Civil Rights Act of 1965" (ICRA); or because of giving testimony or assistance, or participating in any manner in any investigation, proceeding or hearing under the ICRA; or because of lawful opposition to any practice forbidden by the ICRA. Iowa Code § 216.11(2).
2. Respondents acknowledge the ICRA makes it unlawful to discriminate in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status. Iowa Code § 216.8(1)(b).
3. Respondents acknowledge the ICRA makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status of such person. Iowa Code § 216.8(1)(a).

Respondents acknowledge the Fair Housing Act (FHA) makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein,

to any person because of the of race, color, religion, sex, familial status, or national origin. 42 U.S.C. 3604(f)(1)(a) (§ 804(f)(1) of the Fair Housing Act).

4. Respondents acknowledge the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling and to the extent that the accommodation does not cause undue financial or administrative burden or fundamentally alter the nature of the provider's operations. 42 U.S.C. 3604(f)(3)(b) (§ 804(f)(3)(b) of the Fair Housing Act); Iowa Code § 216.8A(3)(c)(2).
5. Respondents acknowledge the FHA and ICRA make it unlawful to discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability. 42 U.S.C. 3604(f)(2)(a) (§ 804(f)(2)(a) of the Fair Housing Act); Iowa Code § 216.8A(3)(b)(1).
6. Respondents acknowledge as owners, developers, builders, or managers of covered multifamily dwellings – ground-floor units in a building consisting of four or more dwelling units built for first occupancy after January 1, 1992 – must build those dwellings in compliance with specific design and construction accessibility requirements, in accordance with the FHA and ICRA. Iowa Code §216. 8A(3)(c)(3); 42 U.S.C. §3604(f)(3)(C).

HUD has described these accessibility requirements via regulation and in several publications, including the “Final Fair Housing Accessibility Guidelines.” 24 *C.F.R. Part 100.200 et seq.*; 56 *Fed. Reg.* 9,472. In the “Guidelines,” HUD presented the seven specific requirements as:

1. Accessible building entrance on an accessible route.
2. Accessible and usable public and common areas.
3. Usable doors.
4. Accessible route into and through the covered dwelling unit.
5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
6. Reinforced walls for grab bars.
7. Usable kitchens and bathrooms.

Voluntary and Full Settlement

7. The parties acknowledge this Predetermination Settlement Agreement is a voluntary and full settlement of the disputed complaint. The parties affirm they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened or in any way forced to become a party to this Agreement.
8. The parties enter into this Agreement in a good faith effort to amicably resolve existing disputes. The execution of this Agreement is not an admission of any

wrongdoing or violation of law. Nor is the execution of this Agreement an admission by Complainant that any claims asserted in her complaint are not fully meritorious.

9. The parties agree the execution of this Agreement may be accomplished by separate counterpart executions of this Agreement. The parties agree the original executed signature pages will be attached to the body of this Agreement to constitute one document.
10. Respondents agree ICRC may review compliance with this Agreement. And as part of such review, Respondents agree ICRC may examine witnesses, collect documents, or require written reports, all of which will be conducted in a reasonable manner by ICRC. To the extent ICRC conducts any additional review for purposes of compliance, the ICRC will share all information, including witness examination, document collection or written reports from others, with CDT and Blue Sky Developers, Inc/808 on 5th, LLC. ICRC will complete its review, to the extent it occurs, within sixty (60) days following notification to the ICRC that the repairs have been accomplished.

Disclosure

11. Because, pursuant to Iowa Code §216.15A(2)(d), ICRC has not determined that disclosure is not necessary to further the purposes of the ICRA relating to unfair or discriminatory practices in housing or real estate, this Agreement is a public record and subject to public disclosure in accordance with Iowa's Public Records Law, Iowa Code Chapter 22. See Iowa Code §22.13.

Release

12. Complainant hereby waives, releases, and covenants not to sue Respondents with respect to any matters which were, or might have been alleged as charges filed with ICRC, the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, or any other anti-discrimination agency, subject to performance by Respondents of the promises and representations contained herein. Complainant agrees any complaint filed with any other anti-discrimination agency, including the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, which involves the issues in this complaint, shall be closed as Satisfactorily Adjusted.

Fair Housing / Accessible Design and Construction Training

13. Respondents agree Blaine Thomas, Randy Miller, and Robert Carlson will:
 - (a) Receive training on the accessible design and construction requirements of State and Federal Fair Housing Laws within 180 days of their receipt of a Closing Letter from ICRC. The training will address the Fair Housing accessibility requirements that must be met in order to design and build covered dwellings and

common use/public areas that are accessible and usable to individuals with mobility and visual impairments.

Attendance at Design and Construction training session offered during the 4th Annual “Be the Change” ICRC Symposium – to be held on October 28, 2016 – will fulfill the requirement for this term. Otherwise, the training shall be conducted by a qualified person, approved by ICRC or the U.S. Department of Housing and Urban Development.

Respondents also agree to send documentation to ICRC, verifying the fair housing / accessible design and construction training has been completed, within ten (10) days of completing the training.

14. Respondents agree Blaine Thomas, Randy Miller, Robert Carlson, and each of Respondents’ current employees or agents who are involved in the design and/or construction of covered multifamily-dwelling properties, will within 120 days from the date of the Closing Letter from ICRC:

- (a) Review and become familiar with the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991) and the United States Department of Housing and Urban Development, Fair Housing Act Design Manual, A Manual to Assist Builders in Meeting the Accessibility Requirements of the Fair Housing Act, (August 1996, Rev. April 1998), which may be obtained online at <http://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf>.
- (b) Submit separate signed written statements via email from each of the Respondents’ representatives named above in paragraph “(a)”, and their current employees or agents who are involved in the design and/or construction of covered multifamily-dwelling properties indicating:
 - i. They have reviewed and become familiar with the Fair Housing Act Design Manual.
 - ii. They understand what the Seven Main “Design Requirements of the Guidelines” are by listing them in the written statement.

Required Modifications or Retrofits

Because CDT does not own, have right to possession or otherwise control the property, and has no right or ability to access any part of the property for the purposes of performing any modifications or retrofits, it is agreed to by and between ICRC and Respondents that any modifications or retrofits described herein below will be implemented, performed and completed by BSD (or any agents, employees, or independent contractors it may use to accomplish the modifications or retrofits).

15. BSD agrees to make the following modifications or retrofits to 808 on 5th:

Accessible and Usable Public and Common Use Areas – “Van-Accessible” Parking

- (a) Respondents agree the two parking spaces designated as “Van Accessible” and reserved for persons with disabilities – which are adjacent to the south of the south-facing entrance – and the corresponding access aisle are too narrow, as specified in ADAAG.
- (b) BSD agrees it will restripe the two parking spaces reserved for persons with disabilities described in the previous paragraph such that the width of each parking space is no less than 132 inches and the width of the adjoining access aisle is no less than 60 inches. The current signage for the parking spaces reserved for persons with disabilities will be kept, which includes the International Symbol of Accessibility as described in the ADAAG.

Accessible and Usable Public and Common Use Areas – Mailboxes

- (a) The parties agree the top four rows of mailboxes exceed the maximum reach-range of 54 inches for a person who requires the use of a wheelchair to make a parallel approach, as required in FHADM and ANSI 1986.
- (b) BSD agrees it will install additional mailboxes at a location that is as close as possible to the location for the current mailboxes to provide tenants with mailbox keyholes that do not exceed the maximum reach-range height of 54 inches, as required by FHADM and ANSI 1986.

Usable Doors – Clear Opening Width for Secondary Entrance

- (a) The parties agree both sliding glass doorways unto the balcony for Unit 210 have a clear opening width that is narrower than the 31 3/4-inch minimum required by ANSI 2003.
- (b) BSD agrees it will remove the bumper from both sliding glass doorways to the balcony at Unit 210 and replace the door handle at the sliding glass door with a slimmer one, so as to increase the clear opening width to a 31 3/4-inch minimum, as required by ANSI 2003.
- (c) BSD agrees to measure the clear opening width for all the sliding glass doorways at all of the units not inspected by ICRC Investigators – as reported on page 3 of the current agreement. If the clear opening width is less than the 31 3/4-inch minimum required by ANSI 2003, BSD agrees it will retrofit the sliding glass doorway and door in the same manner as described in “(b)” paragraph above to bring it into compliance with the ICRA and FHA.

Usable Doors – Interior Threshold Height

- (a) The parties agree the vertical change in level from the top of the threshold at the sliding glass doorways onto the interior finished floor surface in Units 210, 517, and 518 have a height of no less than 2 1/16 inches, which exceeds the 1/4-inch maximum allowed by ANSI 2003 for thresholds without beveling.
- (b) BSD agrees it will permanently install a ramp with a maximum running slope of 8.33% and a width of no less than 31 3/4 inches at the interior thresholds on the sliding glass doorways for Units 210, 517, and 518.
- (c) BSD agrees to measure the interior threshold height of all the sliding glass doorways at all of the units not inspected by ICRC Investigators – as reported on page 3 of the current agreement. If the threshold height is greater than the 1/4-inch maximum allowed by ANSI 2003 and FHADM, BSD agrees to retrofit the threshold in the same manner as described in “(b)” paragraph above to bring it into compliance with the ICRA and FHA.

Usable Doors – Exterior Threshold Height

- (a) The parties agree – as indicated in the table on page 5 of the current agreement – the exterior balcony surfaces in Units 210, 517, and 518 are below interior finished floor surface by no less than 5 3/16 inches, which is more than the 4-inch maximum that is allowed for impervious exterior surfaces, as established in ANSI 2003 and FHADM.
- (b) Since completion of 808 on 5th, the City of Coralville has adopted an amendment to its local building code permitting construction of decks with a drop of up to seven (7) inches between the interior threshold and the exterior threshold (top of the balcony deck surface). However, for purposes of this specific Complaint, the ICRC has taken the position that the revision to the local building code is not applicable to this project and that a modification or retrofit to any deck that exceeds four (4) inches must be made.
- (c) Pursuant to (b), CDT has prepared a design of the decks that will bring any deck at 808 on 5th that is more than four (4) inches between the interior and exterior thresholds to be in compliance with ANSI 2003 and FHADM. That design is attached hereto as Exhibit 1 to this Agreement. Pursuant to that design, BSD agrees it will perform the modification to any deck requiring that modification.

Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations – Light Switches

- (a) The parties agree the height of the light switch adjacent to the front entrance in Unit 518 [“Type D” unit] exceeds the maximum height of 48 inches, as allowed by ANSI 2003 and FHADM.

- (b) BSD agrees it will lower the light switch in Unit 518 to a maximum height of 48 inches, as measured from the floor to the light switch in the “on” position, and as required by ANSI 2003 and FHADM.
- (c) BSD agrees to measure the height of the light switch adjacent to the front entrance at all other seven “Type D” units not inspected by ICRC Investigators. If the height of the light switch is more than the 48-inch maximum height allowed by ANSI 2003 and FHADM, BSD agrees to retrofit the light switch in the same manner as described in “(b)” paragraph above to bring it into compliance with the ICRA and FHA.

Usable bathrooms – Toilets

- (a) The parties agree the distance from the midline of the toilet to the grab-bar sidewall in Unit 517 [“Type C” Unit], measures 16 3/4 inches, as installed, which is less than the required minimum of 18 inches, as designed, as established in the ANSI 2003 and FHADM.
- (b) BSD agrees it will move the toilet away from the grab-bar sidewall in Unit 517 to increase the distance from the wall to the midline of the toilet by at least 1 1/4 inches, resulting in a distance from the midline of the toilet to the grab bar sidewall of no less than 18 inches, which is the minimum required by ANSI 2003 and FHADM.
- (c) BSD agrees to measure the distance from the midline of the toilet to the nearest obstruction at both sides of the toilet in both bathrooms at all other seven “Type C” units not inspected by ICRC Investigators. If the distance from the midline of the toilet is less than either the 18-inch minimum to the grab-bar side or the 15-inch minimum to the non-grab-bar side, as required by ANSI 2003 and FHADM, then BSD agrees to retrofit the toilet in the same manner as described in “(b)” paragraph above to bring it into compliance with the ICRA and FHA.

Usable bathrooms – Clear Floor Space Outside of Swing of Door

- (a) The parties agree the clear floor space outside of swing of the door in the bathroom for Unit 210 [“Type E” unit] is less than 30 by 48 inches, which is less than the minimum required by the ANSI 2003 and FHADM.
- (b) BSD agrees it will reinstall the doors in the bathrooms for Unit 210 to reverse the swing of the door, such that it will swing away from the bathroom, and create the minimum clear floor space dimensions of 30 by 48 inches, as required by ANSI 2003 and FHADM.
- (c) BSD agrees to measure the clear floor space outside the swing of the door in the bathrooms at all other three “Type E” units not inspected by ICRC Investigators. If the clear floor space is less than the 30 by 48-inch minimum required by ANSI 2003 and FHADM, BSD agrees to retrofit the bathroom door in the same manner

as described in “(b)” paragraph above to bring the bathroom into compliance with the ICRA and FHA.

Required Timelines for Completion of Modifications or Retrofits

16. BSD agree that the above-agreed to modifications or retrofits to the public and common use areas of 808 on 5th – parking lot and mailboxes – will be performed within 90 days from the date of the Closing Letter from ICRC.²⁷
17. BSD agrees to make the above-required modifications or retrofits to each of the units as each of the units becomes vacant. BSD agrees to make the required modifications or retrofits before each of the units is rented again.

Mandatory Reporting Requirements

18. BSD agrees to notify ICRC and CDT when it has completed the required modifications or retrofits for all of the units. Such notification shall be made within 90 days of completion. These required notifications to ICRC and CDT will continue until all required modifications or retrofits have been completed in all 10 units.
19. Respondents agree, as the required modifications or retrofits are made to a particular unit, ICRC may then inspect such unit, and then report the results of its inspection, addressing any outstanding deficiencies, in writing and within 30 days of the inspection, to Respondents.

If the inspection indicates outstanding deficiencies, BSD shall correct all such deficiencies within a reasonable period of time as determined by ICRC, and shall pay a reasonable fee for another inspection by ICRC staff or pay for an inspection by a third party inspector, approved by ICRC.

20. The sale or transfer of ownership, in whole or in part, by any owner of the subject property will not affect any obligation to modify or retrofit the subject property as specified in this Agreement, unless BSD has obtained, in writing, as a condition of sale or transfer, the purchaser or transferee’s commitment to be bound by the terms of this agreement to complete all required modifications or retrofits as specified in this Agreement.
21. Within 90 days from the date of the Closing Letter from ICRC, Respondents agree to provide a written statement to ICRC, to the attention of Don Grove, Supervisor of Housing Investigations, which specifies how each of the above-required modifications or retrofits will be corrected.

[Please see next page for signature page]

²⁷ The “Closing Letter” provides notice to the parties that the case has been closed. Once this agreement is fully executed, the Commission will issue its Closing Letter. It will be mailed to all parties and their representatives. A fully executed copy of the agreement will accompany the Closing Letter.

808 on 5th, LLC
RESPONDENT

Date

Blue Sky Developers, Inc.
RESPONDENT

Date

Carlson Design Team, PC
RESPONDENT

Date

Angela Jackson
COMPLAINANT

Date

Kristin H. Johnson, Executive Director
IOWA CIVIL RIGHTS COMMISSION

Date